

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 MARSAUN COLEMAN,

Case No. 2:19-cv-01547-GMN-EJY

4 Plaintiff

ORDER

5 v.

6 CLARK COUNTY DETENTION CENTER,

7 Defendant

8 **I. DISCUSSION**

9 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. §
10 1983 by a detainee. On November 18, 2020, the Court issued an order dismissing the
11 complaint with leave to amend and directed Plaintiff to file an amended complaint within
12 thirty days. (ECF No. 5 at 4-5). The thirty-day period for Plaintiff to file an amended
13 complaint has now expired, and Plaintiff has not filed an amended complaint or otherwise
14 responded to the Court's order.

15 District courts have the inherent power to control their dockets and “[i]n the
16 exercise of that power, they may impose sanctions including, where appropriate . . .
17 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
18 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
19 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
20 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
21 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
22 1992) (affirming dismissal for failure to comply with an order requiring amendment of
23 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
24 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
25 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
26 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
27 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
28 local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey
2 a court order, or failure to comply with local rules, the court must consider several factors:
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
12 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
13 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
14 disposition of cases on their merits—is greatly outweighed by the factors in favor of
15 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
16 the court's order will result in dismissal satisfies the "consideration of alternatives"
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
18 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within
19 thirty days expressly stated: "It is further ordered that, if Plaintiff fails to file an amended
20 complaint curing the deficiencies outlined in this order, this action will be dismissed
21 without prejudice." (ECF No. 5 at 5.) Thus, Plaintiff had adequate warning that dismissal
22 would result from his noncompliance with the Court's order to file an amended complaint
23 within thirty days.

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II. CONCLUSION

It is therefore ordered that this action is dismissed without prejudice based on Plaintiff's failure to file an amended complaint in compliance with this Court's November 19, 2020, order.

It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF No. 4) is denied as moot.

It is further ordered that the Clerk of Court shall enter judgment accordingly.

DATED THIS 5 day of March, 2021.

UNITED STATES DISTRICT JUDGE